Not to be destroyed

GENERAL AND REVENUE SECRETARIAT.

1906-7

(Sep Rev)

File No. 138 of 05

Serial Nos. 110.

Papers Filed.

Month July

SUBJECT

[illegible] of the Value of 2 [illegible] [illegible] [illegible] by one [illegible] of Bangalore [illegible]

PREVIOUS REFERENCES. LATER REFERENCES.

G.R.S. 59.

GENERAL AND REVENUE SECRETARIAT.

(S. R. C.)

NOTES.

File No. 138-05

FILE HEADING.

Refund of the name of his Court fee stamps of the value of Rs 40 [illegible] [illegible] by one Akkamanna [illegible]

From: [illegible] No 5 Kemkannaas lane Nagarthi [illegible]

No. Petn Dated 16/3/05 Received 16/3/05

Diary No. 2186 Enclos. 1 Spare Copies. Serial No.

BRIEF ABSTRACT OF LETTER.

Appeals against the order of the Bangalore Court in 717 of the 17th [illegible] declining to sanction [illegible] refund that stating that it is not allowed by Govt. Notn. No 9 of the 16th April 1885

NOTES AND ORDERS.

May 19 Govt. Notn. No 9 of the 16th April 1885 allows the refund of unexpired Court fee stamps for which the purchaser has no immediate use or which has been spoiled or rendered unfit or

NOTES—First sheet.

MGCPB—30,000—17 2-05.

(2)

G.R. 12]
General and Revenue Secretariat.

File No. 138 of 1905

Serial No.

unless for the purpose intended. There is no express order stating that the above notification continues to be in force even after the Court Fee Regn. III of 1900, came into force, which contains no provision for such refunds. But there are precedents sanctioning refunds under the above notice evidently believing that it is in force even now.

Hay T.
G.O. No. H 3502-3- / S.R. III-03-2 dy 24/10/04

Hay V
G.O. No. H 1030-1 / S.R. 12-04-2 dy 23/8/04

The Court fee stamps produced by the petitioners are spoiled & the refund of the value thereof may therefore on the authority of the precedents quoted be allowed ~~[illegible]~~

~~[illegible]~~

It not clear how the Dr. Comrs of the Bangalore Distt is of o[illegible] that the refund in question cannot be allowed under the notification refd to. It is better to ascertain his reasons before the refund is sanctioned. Draft subd accordingly for approval or orders.

Draft subd Dreny
22.3-06

Passed
23.3.1906
23-3-06

Note—Contn. sheet

GPB—50,000—23 10-05

G.R. 3. 12]
General and Revenue Secretariat.

3rd File No. 138 of 1905

Serial No. 2 To the Dy. Comr. Bangalore No. Fl 6384. dy the 28th March 1906

Forwards the above for his report as to the circumstances under which he is of opinion that the refund in question cannot be allowed under Govt. Note No 9 of the 16th April 1885

3 From the Dy. Comr. Bangalore No 841. dy the 12th May 1906

States that the refund was applied for by the Petr on the ~~ground~~ score of there being no necessity for filing the suit, as the affair was compromised by the parties; that the stamp papers had not been spoiled as has been done now by spilling ink over them; that the purpose for which the stamp papers were purchased ceased to exist as soon as the compromise was effected; & that, therefore, none of the conditions of the note was satisfied to allow the refund; & that the application ~~was~~ ~~[illegible]~~

Note—Contn. sheet

MGCPB—50,000—24-7-05

(4)

G.R.S. 12]
General and Revenue
Secretariat.

S.V.9 File No. 130 of 1908

Serial No.

for refund was consequently
[illegible]

Flag R

The note rec'd to above,
authorises and refund of the
value of an impressed Court
Fee stamp (1) for which there
has been no immediate use
(2) or which has been spoiled
(3) or rendered unfit or useless
for the purpose intended
The Deputy Comr of the Bangalore
District explains that condition
(2) is not satisfied as the paper
had not been spoiled when they were presented
as they are done now by spilling
ink over them. It is likely
that the owner could have
done so subsequently i.e. after
they were returned to him by
the Dy. Comr & before their
submission to Govt as
he knew evidently after
he was informed by the Dy.
Comr that the other two
conditions were not applicable
to the case. ~~[illegible]~~
~~[illegible]~~ and this is a serious

NOTE—Contn. sheet

GPB—50,000—23-10-05

J- Ins: 198. 25-8-05

(5)

G.R.S. 12]

General and Revenue Secretariat.

S.1C File No. 138 of 1905

Serial No.

Charge against Inc (Petr)
The Dy. Comr is also of opinion that conditions (1) & (3) are not satisfied as the papers became useless as a consequence of the compromise and as the purpose intended did & not continue to exist which is a necessary ingredient
The Dy. Comrs argument seems to be sound & correct & the petition for refund may therefore be rejected. If necessary Br III may also be consulted
~~[illegible]~~ S.I.D. [illegible]
[illegible]
20/5/06 To Branch iii for favour of
[illegible] [illegible] 24.5.06

In the case of General stamps there is express provision in the Stamp ~~[illegible]~~ Regulation that the powers exercisable by a Deputy Commissioner in the matter of allowances for stamps shall be subject to the control of the Chief Controlling revenue authority — Neither in the Court Fees Regulation nor in the Rules of the 16th April 1885 is there provision to the Chief

NOTE—Contn. sheet

GPB—50,000—23-10-05

(5)

[G.R.S. 12]

General and Revenue Secretariat.

Sdh File No. 138 of 1905

Serial No.

Controlling Revenue authority revising or modifying an order of the Dy Comm in cases of the kind under reference. Even in the cases falling under para 2 of the said Rules in which the Government can allow refunds, the Govt have to base their action upon the recommendation of the Dy Commissioner

Supposing that the Govt can interfere by virtue of the general subordination of the Dy Commr the Petitioner is not entitled to the refund claimed for.

(1) he seeks to modify the declaration which he made to the Deputy Commr and this he might not to be permitted to do

(2) the shilling of ink on the stamps was not due to inadvertence and absence of design

(3) the stamps were used for the purpose for which the were required. the plaint was drawn upon them in proper form, it was also signed by the Petitioner and his Advocate and this step in all probability accelerated the compromise

Sub'd to Secy for orders

29.5.06 30-5-06

Please put up a draft ~~to day~~ Stating

NOTE—Contn. sheet

GPB—50,000—23-10-05

(76)

G.R.S. 12]
General and Revenue
Secretariat.

File No. 138 of 1905

Serial No.

that Govt see no reason to interfere

Draft sent to [illegible] 20/6/05 appeal may be rejected

23/6/05

The Dy Com: has [illegible] the point well. His letter may perhaps be read in extenso, & an order passed (for general guidance) stating that the Govt consider that the view taken by [illegible] correct

[illegible] 27/6/05

Refund may be refused as the compromise appears to have been brought about after the plaint was drawn up on the stamp paper and probably as a consequence of it

I am not however impressed with the arguments put forward in the Dy Commrs letter. They appear somewhat strained

NOTE—Contn. sheet

GPB—50,000—23-10-05

G.R.S. 12]
General and Revenue Secretariat.

File No. 138 of 1905

Serial No.

on the 1st point — viz the possess. having no immediate use for the stamps. Instances may be readily imagined where a man buys the stamp for a certain purpose — which fall mere through and he has no immediate use for the stamp. The general terms in which this clause is expressed is wide enough to cover a variety of cases. The interpretation put upon it by the Dy Commr is rather strained & need not receive the imprimatur of Govt.

V. Kittanna Chetty
2d Councillor

28/6/06

Issue the draft — end —
[Nothing more necessary]
28/6/06

To Appayanna
No. H. 678. 5-7-06

Intimate that Govt see no reason to interfere with the order of the Dy Comr, declining a refund.

Note—Contn. sheet

GPB—50,000—23-10-05

GOVERNMENT OF MYSORE

TWO RUPEES

16-3-86

138

S R

D. 3786 05-81

Seen 16/3/86

16/3/86

2

GOVERNMENT OF H. H. THE MAHARAJA OF MYSORE.

General and Revenue Secretariat.

J. R

Office Memorandum.

No. H 6384 Dated Bangalore, the 28

S. R 138-05-7

Gnd

* Subject.	The accompanying Petition* Registered
Refund of the value of two Court fee stamps of the value of Rs 50/ & 40/ respectively	No. 3786 dated the 16th March 1906 received in this office, from one Appayamma of the Bangalore City, ~~appealing against the order of the Dy. Comr. of the B~~

is forwarded to the Deputy Comr. of the Bangalore Distt for his report as to the circumstances under which he is of opinion that the refund in question cannot be allowed under Govt. Notn. no 9 of the 16th April 1885

By Order,

23.3.11

For SECRETARY.

Tree
22/3/06

Official SS. 27/3.

8 Pr 38.05 II Dawn 15/5 vR (3) D.4801 (3)

Cir 234

1905.06

From

The Dy. Commissioner
Bangalore Dist.

To

The Secy. to the Govt. of Mysore
Gen. & Rev. Deptt.

Dated 12.

Despatched 11. May 1906.

Received

General No.
S. No. 841

Enclosure No. 4

His No. FC 6384 28.3.06.
S.R. 138.05-2

R [illegible]

Stamps under which [illegible]
[illegible] of the value of
[illegible] Court's fee stamps
from one Appaiyanna was
not granted.

Office of the Deputy Commissioner ,

Bangalore District.

S.No. 841/E-4. Dated Bangalore, 12th May 1906.

From ,

D. Devaraj Urs Esquire,

Deputy Commissioner ,

Bangalore District.

To ,

B.K.Venkata Varada Iyengar Esquire,

Secy.to the Govt.of H.H.the Maharaja of Mysore.

General & Revenue Departments.

Sir ,

With reference to your memo No.Fl.6384/S.R.138-05-2 dated 28th March 1906, forwarding a petition with two - spoiled Court Fee Stamps from one Appaiyanna of the Bangalore City for report as to the circumstances under which refund of the value thereof was not allowed, I have the honor to state that the refund of the value of impressed court fee stamps is permissible in accordance with Government Notification No.9 - dated 16th April 1885 under the following circumstances.

(1) When the possessor has no immediate use for them;

(2) When spoiled; and

(3) When rendered unfit or useless for the purpose intended.

2. The stamps in question were presented to me with - petition dated 7th February 1906 forwarded herewith for the re--fund of their value on the score of there existing no necessity for ~~filing~~ filing the suit as the affair was compromised between the parties before filing the suit. The first condition of grant seems applicable when the possessor has no immediate use for the stamp i.e., when the time for action is apparently deferred to some distant time. In the present instance the petitioner has no use for his stamp and not that he cannot make any immediate use. Refund could not be granted under that head.

The

3. The second condition of grant is when the stamps are spoiled and are therefore useless. In the present instanc the stamps were not spoiled when presented to this office. they are now done by spilling ink over them, and they - could not fall under the second head.

4. The only remaining condition of grant is when the -- stamps are unfit or rendered useless for the intended pur- -pose i.e., when the stamps are in such a condition that the purpose for which they were intended at the time of -- purchase cannot be attained by means of them, say for ins- -tance. when the stamps are of lower value than prescribed by the rules and for getting through the purpose a separate stamp is necessary. In the instance under reference the petitioner has stated that the stamps were useless to him as there was no necessity for filing a suit as the affair had been compromised before. in other words refund was ~~cla~~ claimed because the stamps were no longer of any use abso- -lutely, as the cause of action was entirely removed. The rule considers that refund under the 3rd head is admissible when the stamps are useless or rendered unfit for the pur- -pose intended; the condition may be taken to be that the possessor would have proceeded with the purpose if the --- stamps were in proper form and useful and he is deterred a bit on account of the stamp becoming useless or unfit for him for the purpose. i.e.. the purpose continues to exist irrespective of the spoilation or becoming useless of the stamp. But in the matter under notice the purpose itself was removed by a private act of the parties and one of the consequences of that act was that the stamps became useless absolutely. Therefore it cannot be held that the stamps - were useless or rendered unfit for the purpose intended when alone refund was admissible under the rules as at the time of the stamps becoming unfit or useless there was no purpose whatever. while as a matter of fact as already stated above the stamps became useless or unfit as a conse- -quence of the removal of the intended purpose. The intended

purpos

purpose of the petitioner was to file a suit in the Civil Court and he has not alleged that he could not file a suit with these stamps, but he only prays that the refund may be ordered as there was no necessity for him for using the -- stamps. As a matter of fact the stamp papers were in due form for being accepted by the Court.

5. As there is no provision under the rules for ordering refund under such circumstances for the reasons explained above at length, I did not grant the refund.

I have the honor to be ,

Sir ,

Your most obedient servant ,

For Deputy Commissioner ,

Bangalore District.

B.N.S.

No. 76 67.
Sch/38.05-4

MYSORE GOVT. GEN. & REV. SECRETARIAT,
Dated, Bangalore, 5 — 1 — 1906.

5

ENDORSEMENT GRANTED TO Akkayamma of the Bangalore City

in reply to his Petition Registered No. 37 SW dated 10/6 Nov. 1905 appealing against the orders of the Dy. Comr. Bangalore virtual declining to sanction the refund of 2 Court Fee Stamp papers of Rs 50 & 40/- respectively produced in him

Petitioner is informed that you see no reason to interfere with the order of the Dy. Comr. declining a refund. The enclosures to his petition are herewith returned

By Order,

Secretary.

13/6/1

Tree
21/6/06

3/7